HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NOS.995,997 & 999 OF 2000

Dated 17th August, 2005

WRIT APPEAL NO.995 OF 2000

Between:

The Management of Sarvaraya Textiles Limited, Kakinada, E.G.District.

Appellant.

And:

1. Ch.Pentayya, son of Achi Raju, aged 43 years, resident of Ganganapalli Post, Kakinada Mandalam, E.G.District and others.

Respondents.

WRIT APPEAL NO.997 OF 2000

Between:

The Management of Sarvaraya Textiles Limited, Kakinada, E.G.District.

Appellant.

And:

1. T. T. Ramachandra Rao, son of Satyanarayana Murthy, aged about 43 years, Ex-worker of Sarvaraya Textiles Ltd., Kakinada E.G.District and others.

Respondents.

WRIT APPEAL NO.999 OF 2000

Between:

The Management of Sarvaraya Textiles Limited, Kakinada, E.G.District.

Appellant.

And:

1. P.Dhana Raju, son of Chinna Mahalakshmi, aged 47 years, D.No.1-1-37, Nerelamma Temple (Near), Cheediga (Post), Kakinada Mandalam, E.G.Dt. and others.

Respondents.

COMMON JUDGMENT : (Per the Honourable Smt. Justice T.Meenakumari)

The present writ appeals are preferred by the Management-appellant herein against the common order of the learned single judge passed in W.P.Nos.20614 of 1995, 18062 of 1994 and 20746 of 1995.

The 1st respondent as figured in all the three appeals are the writ petitioners in the respective writ petitions. The parties will be referred to as arrayed in the writ petitions for the sake of convenience. Since the issue involved in these three appeals is one and the same, the appeals are disposed of by way of common judgment.

Originally, the Government referred the dispute between the petitioners in respective petitions and the Management to the Labour Court and the Labour Court, Guntur after considering the respective contentions raised in the respective I.D.Nos.112, 102 and 116 of 1985 held that the claim of the petitioners for reinstatement with back wages is not justified and they are not entitled to any relief claimed in the petitions. Aggrieved by the same, the petitioners filed the respective writ petitions seeking to direct for calling for the reasons relating to the above referred three I.Ds. from the 3rd respondent Court and set aside the same by holding and declaring that the action of the 3rd respondent is illegal, arbitrary and violative of principles of natural justice and further direct the 2nd respondent to reinstate the petitioner into service with continuity of service and back wages. The learned single judge having observed that the subject matter of all these writ petitions is covered by a Division Bench Judgment of this Court in W.P.No.18052 of 1994 dated 30-6-1997, wherein this Court having confirmed the award passed by the Labour Court, modified the punishment of removal of the workmen from service to one of the reinstatement into service afresh without continuity of service and without back wages and directed the 2nd respondent-management therein to reinstate the petitioner into service within three months from the date of receipt of a copy of that order, disposed of the present writ petition in terms of the judgment of the above Division Bench. Aggrieved by the same, the Management-appellants in all the three writ petitions preferred the aforesaid appeals.

Heard the learned counsel.

We have perused the order impugned and the entire material available on record.

It is contended by the learned counsel for the Management that the learned single judge failed to appreciate the findings of the Labour Court. It is further contended that the reliance placed by the learned single judge on the order in Writ Petition No.18052 of 1994 is erroneous.

On the other hand, it is contended by the counsel appearing on behalf of the petitioners that the contentions advanced by the learned counsel for the

management are baseless and there are no merits in the appeals and as such, the same are liable to be dismissed.

A perusal of the judgment of a Division Bench of this Court in W.P. No.18052 of 1994 basing on which the present three writ petitions were allowed, goes to show that the punishment of removal from service is not proportionate to the gravity of the charge and therefore, the Labour Court ought to have modified the order of the disciplinary authority to that of reinstatement into service afresh without continuity of service and without back wages.

A perusal of the material on record, goes to show that the tribunal has passed the order on 30.1.1986 holding that they petitioners are not entitled for reinstatement into service whereas the present writ petitions have been preferred in the year 1995 i.e., after a lapse of 9 years from the date of the award. There are latches on the part of the petitioners in filing the writ petitions at a belated stage, and as such, it can easily be construed that there are no bonafides on the part of the petitioners in approaching this Court after a lapse of 9 years of the award. But, this aspect has not been considered by the learned single Judge. Therefore, in the facts and circumstances of the case, We feel that the case of the petitioners cannot be considered in the light of the proposition laid down by a Division Bench of this Court in W.P.No:18052 of 1994, dated 30.6.1997 and as such, the order of the learned single Judge, is not justified and it would warrant interference of this Court. Hence, the order of the learned single Judge, is liable to be set aside.

Accordingly, the appeals are allowed setting aside the order of the learned single Judge passed in W.P.20614 of 1995 and batch. No costs.

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Justice T.Meena Kumari

Date : 17th August, 2005.

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Justice P. Lakshmana Reddy

Dvs/kvrk

HONOURABLE SMT.JUSTICE T.MEENA KUMARI

&

HONOURABLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NOS.995, 997 & 999 OF 2000

(Judgment delivered by the

honourable Smt. T.Meena Kumari)

17th August, 2005